

In a telephone interview with the Examiner on July 8<sup>th</sup>, 2005, the Examiner suggested that Norfleet at col. 5, lines 10-30, contemplates variations that encompass the invention claimed in claims 1-6, 10-15, 19-24, 28 and 30. The Applicant respectfully disagrees. Nowhere in this paragraph, or in the patent document, is a single strap that extends from each junction, to a single attachment point on each side of an oxygen mask, contemplated. In fact, the variations considered by Norfleet all have two straps extending from each junction. Lines 13-17 describe a strap made from six straps, resulting in a strap that has two forward straps (upper and lower) extending from each junction. Lines 17-22 and 22-27 describe making the strap of Norfleet by using two single straps in different arrangements, to result in two forward straps (upper and lower), extending from each junction. Lines 27-31 describe yet another way to make the strap of Norfleet by splitting a single strap, to result in two forward straps (upper and lower), extending from each junction.

The amendments to the claims that were submitted by the Applicant on May 3, 2005 and the arguments therein, clearly distinguish the invention of claims 1-6, 10-15, 19-24, 28 and 30 from that described by Norfleet. Claims 1, 10, 19 and 28 stipulate that the strap (10) has only one side strap (18) extending from each junction (16), and that there is only one attachment point (20) on each side of the oxygen mask (22). These features are not shown or mentioned in Norfleet. As discussed by the Applicant in detail in the response of May 3, 2005, Norfleet teaches an oxygen mask in which two straps extend from each junction and in which there are two attachment points on the oxygen mask.

In the telephone interview with the Examiner, the Examiner indicated that he would alternately reject the claims under 35 U.S.C. 103. The applicant respectfully traverses this rejection.

As mentioned previously in the response of May 3, 2005, Norfleet clearly teaches away from using a single connection point, to connect the mask to the strap. Column 3 beginning at line 35, discusses the prior art straps and masks, which are shown in Figures 1 and 2, which attach at only one point on each side. It is stated that:

Another problem encountered with the use of the strap 16 to hold the face mask 14 against the face of the infant 12 is that the face mask 14 can be easily pivoted about the axis defined by the two points where the strap 16 is attached to the face mask 14 due to the small size of the face mask 14.

In view of the above comment, one of skill in this art would not be motivated to modify the strap of Norfleet by using one strap instead of two, as they would expect the mask to pivot about the axis defined by the two points where the strap is attached to the face mask. This pivoting of the face mask would clearly interfere with the maintenance of oxygen delivery to a patient, as the mask would be expected to flip over.

In the telephone interview with the Examiner, the Examiner indicated that he would then reject the claims as being obvious in view of *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965), as an obvious engineering choice. However, the Applicant submits that it cannot be obvious to choose to do something that is clearly taught against in the prior art.

The Applicant submits that claims 1, 10, 19 and 28 are both novel and unobvious in view of Norfleet. As claims 2-6, 11-15, 20-24 and 30 depend either directly or indirectly from claims 1, 10, 19 and 28, the Applicant submits that these claims are likewise novel and unobvious in view of Norfleet. Favorable consideration and withdrawal of the rejections under 35 U.S.C. 102 is respectfully requested.

### **Claim Rejections – 35 U.S.C. 103**

#### **Norfleet and Darrow**

The Examiner has rejected claims 7, 16, 25 and 29 as being unpatentable over Norfleet in view of Darrow (U.S. patent no. 1,323,217), because Darrow discloses a transverse element (crown strap).

The limitations in claims 1, 10, 19 and 28 are incorporated into claims 7, 16, 25 and 29. The Applicant submits that in view of the above arguments, the rejection is not relevant.

Favorable consideration and withdrawal of the rejections to these claims under 35 U.S.C. 103 is respectfully requested.

Norfleet and Darrow and Cruickshank

The Examiner has rejected claims 8, 9, 17, 18, 26, 27 and 31 as being unpatentable over Norfleet in view of Darrow and Cruickshank (U.K. application no. 2,212,725), because Darrow discloses a transverse element (crown strap) and Cruickshank discloses a transverse element (crown strap) that comprises a resilient (elastic) material.

The limitations in claims 1, 10, 19 and 28 are incorporated into claims 8, 9, 17, 18, 26, 27 and 31. The Applicant submits that in view of the above arguments, the rejection is not relevant. Favorable consideration and withdrawal of the rejections to these claims under 35 U.S.C. 103 is respectfully requested.

Conclusions

In light of the arguments presented by Applicant herein, the Applicant submits that the claims are in a condition for allowance. Applicant respectfully requests that the Examiner withdraw all rejections with regard to the claims in reliance on one or more of the grounds submitted by the applicant.

Respectfully submitted,



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